

# **Market Rules**

## **Why Set Rules - We Get Along Fine Now....**

The market members or the sponsoring entity should establish rules for the day-to-day operation of the market. Market rules contribute to the experience for the customer, the success of the farmers and keep squabbles to the minimum.

Rules do not need to be pages long with every possible event covered, but they should reflect the purpose for the market and protect the credibility of the market in the eyes of the customer. Many markets operate successfully with a single page of 10 rules. Some choose to be more extensive. Either way, you should make sure each member gets a copy of the rules and reads and understands them. Many markets choose to have each member sign a copy of the rules as part of their membership agreement.

## **How to Get Started**

Sample rules from other Kentucky farmers' markets can be viewed on the KDA web site – [www.kyagr.com](http://www.kyagr.com). Click on "Farmers' Markets" on the drop down menu and then click on the Farmers' Market Directory link. There you will find a link to market rules from across the state.

Each market sets its own rules, and the market can make any changes when it sees appropriate. Don't be hesitant to revisit the rules at the end of each season to determine which rules work and which rules don't. One of the first rules that should be established is how to make and change rules as may become necessary. This process needs to be fair and open and allow for producer input but should limit endless discussion or arbitrary changes at the whim of one or two members.

## **Hints for Making Rules**

- Rules should be easily understood.
- Rule should be written down and made available to all members and sponsors.
- Rules need to be fairly and consistently enforced.
- Rules should work to the advantage of the producers selling at the market.
- Rules should protect the credibility of the market by requiring producers to properly label and represent product at the market.
- Rules should protect the market.

Neither the Department of Agriculture nor any other entity sets requirements or standards for these rules. There are, however, several areas that markets are encouraged to cover in

their rules to help each market operate efficiently and to serve the producers who sell at the market. These areas are covered below.

## **Areas to Cover**

- **Membership, including fees**

The rules should specifically state how a producer applies for and maintains his or her membership. Fees should be outlined in detail. Any restrictions on space usage or required number of days at market should be spelled out.

Markets do not have to take all applicants and should set criteria for producers to meet in order to be members. How many market days are they planning on being at the market? Will the product they offer add to the diversity of the market?

Competition between vendors is good and should not be discouraged by severely limiting tomato producers, for instance, because your president happens to grow tomatoes. But if space is tight, then a judicious look at applicants who offer something different may be in order.

- **Enforcement, including the who and how**

Rules are only as good as enforcement of the rules. This one gets hard for markets without paid market managers but is vital to keeping the market from dissolving into numerous petty arguments. Each member should be aware of how the rules are enforced and agree to submit to the process before joining the market.

Some markets have instituted levels of violations, such as being late for the market opening is a small violation whereas selling misrepresented product would be a big violation. Some develop “three strikes and you’re out” provisions. Fair, consistent enforcement is the key.

- **Market days and times**

The days and times and location of your market should be outlined in the rules. Opening date and closing date should also be covered. Opening and closing dates help producers who may want to offer early or late product. Established times will help customers find you and know when to shop the market. Some markets require vendors who sell on any day to remain until the close of the market to ensure customers don’t arrive during market hours to be disappointed. Just saying the market closes when “sold out” doesn’t help the customer know when to find you.

If your market closes a market day or location late in the season or has a location and day that is only open part of the year, the criteria for making that decision should be spelled out. Along with establishing and keeping to market hours, this is important if your market hopes to accept vouchers for the Farmers’ Market Nutrition Program - WIC or Senior. If an inspector comes to an approved market during the week on a published market day and there are no vendors, this will constitute a violation with the program and will be considered in the decision to keep your market in the program.

- **Source of all products**

The source of all products needs to be clearly labeled, especially if your market allows vendors to sell product that is not grown by the vendor or accepts vendors from out-of-state. Signage should be required that identifies product bought from other producers or from a USDA terminal or produce auction. This maintains your market's integrity and avoids misunderstandings and hard feeling from customers and other vendors.

- **Hold-harmless**

Vendors should agree not to hold the market responsible or liable for any damage or loss incurred by them while at the market. This protects the market itself from being responsible for many types of loss producers can incur while at the market including personal injury of the vendors themselves.

- **Licensing and necessary permits**

Vendors are required by the health department to obtain different types of permits or licenses for different products. Additionally, some municipalities require business licenses or taxes. To eliminate market liability for each vendor complying with all regulations, markets may include a catch-all rule that states that each vendor shall be responsible for complying with all applicable state and local laws, regulations and requirements.

- **Products allowed**

Each market can determine by their rules what products will be allowed for sale at their market. Beyond the issue of value-added agriculture products is whether the market will allow crafts, livestock and other products. When discussing these rules, it is good to revisit why the market was started in the first place. Products besides agriculture products can give a market a flea market feel that does little to lead to the success of the local farmer.

On the other hand, restricting products to only fresh fruits and vegetables can limit some farmers from branching out into value-added products as well as preventing the market from attracting all the customers it could. Meats, flowers, jams, gourd art, eggs, and more will help the market grow.

Restricting vendors to selling only top quality, fresh product has become necessary for some markets. Cleanliness and quality of product should be a given but, unfortunately, are not. If a market decides to pass a rule in this area, some objective criteria need to be spelled out along with who makes the decision. This can be a very subjective area and can lead to some real battles. Be careful in this area and revisit these rules often to make required revisions.

- **Geographic restrictions to market membership**

Some markets restrict their membership to producers from their county. Though there are good and bad sides to this, each market should consider accepting members outside the county to increase the diversity of product at the market. For instance, if no one in the county is offering small fruit or pumpkins, the market may want to provide for letting in a producer close by who can offer these products. Be aware that a producer of tree fruit may not want to join the market if he or she is restricted only to bringing apples and not allowed to bring other products they grow that may be offered by present market members.

- **Pricing**

Setting market prices is a difficult area. Customers do not like to know that the market is involved in “price fixing” but, at the same time, markets need to protect their vendors from vendors who dump low-cost product on their market. Sometimes these vendors are hobbyists who are not trying to make a profit or might be someone who has overbought or over produced a product and want to sell it quickly.

Some markets set a minimum price for a product and allow any higher prices that the vendor may want to charge. Organics, heirloom varieties, specialty crops, and others may bring higher prices. Farmers’ market prices are reported as well as prices from the produce auctions around the state. You can find these prices by visiting the farmers market page at [www.kyagr.com](http://www.kyagr.com) and clicking on “Farmers’ Market” on the drop down menu.

- **Spaces**

Theoretically, if a market is set up efficiently, all spaces should be equal at the market. But reality tells us that this isn’t so. How spaces are assigned should be included in the rules. Some markets choose to assign spaces based on seniority. Others, in order to encourage and reward producers who come the entire market season, allow producers to choose their space on the basis of number of days they were at the market the previous year. To those starting a new market this issue becomes critical and should be given sufficient attention as it causes many disagreements at markets.

Some agreement needs to be reached on when vendors can move into another vendor’s reserved spot if the vendor doesn’t come to market that day. A specific time for any moves needs to be set so those who wish to move can do so without upsetting a vendor who is running late.

## **Right of Refusal**

In your rules and on your application, state that the market reserves the right to refuse membership to any one. This might be done for numerous reasons so the reason should not be stated; only the market’s right to refuse membership.

## **A Word About Fees**

Every market that is not completely supported by a sponsor needs to charge fees to members to cover expenses. A good way to determine what fees to charge is to add up your expenses and divide them among market members. The following worksheet may be of some help to markets trying to determine fees.

### How Much Should We Charge for Fees?

Item	Cost	Need or want
Lot rental		
Port-o-let		
Utilities		
Market Manager		
Insurance		
Advertising		
Bags		
Bank Fees		
Promotional events		
<b>TOTAL</b>		

Number of members \_\_\_\_\_

Total divided by number of members \_\_\_\_\_

The fee you determine can be either a membership fee or a gate fee that is collected each market day. Remember that not all members will sell every day, so adjust your gate fee accordingly.

**Do not underestimate the amount of advertising and promotion your market will require. This is never money poorly spent.** Studies tell us that for every dollar the market spends on advertising the market makes two. Don't forget special outreach to FMNP-WIC recipients (if your market is in the program) to increase your redemption rate.